

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

GEARY T. STRANGE,

PLAINTIFF

v.

No. 4:05CV82-M-B

MS STATE PENITENTIARY, BARBARA HOLLOWAY,
E. L. SPARKMAN, LT. ELLIS and DONALD CABANA,

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION,
DISMISSING DEFENDANT

On consideration of the file and record of this action, a hearing having been conducted by the magistrate judge pursuant to 28 U.S.C. §636(b)(1)(B) and *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985), the Court finds that the Report and Recommendation of the United States Magistrate Judge dated July 22, 2005, was on that date duly served by regular mail upon the *pro se* plaintiff; that more than ten days have elapsed since service of said Report and Recommendation; and that no objection thereto has been filed or served by any party. The Court is of the opinion that the magistrate judge's Report and Recommendation should be approved and adopted as the opinion of the Court. It is, therefore **ORDERED**:

1. That the Report and Recommendation of the United States Magistrate Judge dated July 22, 2005, is hereby **APPROVED AND ADOPTED** as the opinion of the Court.
2. That plaintiff's claims against Defendant Mississippi State Penitentiary are hereby **DISMISSED** with prejudice.
3. That the plaintiff's claims against the remaining defendants, Deputy Warden Barbara Holloway, Deputy Commissioner Emmitt Sparkman, Lt. Ellis, and Superintendent Donald Cabana, shall proceed.

4. That this matter is referred to the magistrate judge for further proceedings consistent with the opinion of the Court.

THIS, the 13th day of September, 2005.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE